
Chapter 21 Financial Crime

Section 1

Abstract

Criminal justice officials have begun to recognize that victims of financial crimes, such as telemarketing or investment fraud, identity theft, and elder financial exploitation, have many of the same needs as victims of violent crime. In response, these victims are beginning to see an increase in services and resources available to them. It is important to develop a basic understanding of the impact of these crimes and how the federal criminal justice system addresses victims' rights and needs. Victims of financial crime may suffer severe psychological and financial harm, and sometimes physical effects as well. They require assistance and intervention that take into account their particular needs and the unusually complex nature of these cases.

Learning Objectives

Upon completion of this chapter, students will understand the following concepts:

- Important legal, programmatic, and definitional issues in financial crimes such as investment and telemarketing fraud, identity theft, and elder financial abuse or exploitation.
- Needs of victims of financial crime.
- Innovative services at the local, state, and federal level to address each type of crime.
- Funding available through VOCA to support innovative victim assistance programs to work with these underserved victims.
- Appropriate and collaborative methods for handling cases involving financial crime.
- Promising practices in response to financial crimes.

Statistical Overview

- In 1998, 220,262 persons were arrested for fraud crimes. An additional 70,678 were arrested for forgery and counterfeiting offenses, and 10,585 persons were arrested for embezzlement (BJS 1999, 214, table 32).
- The U.S. Department of Justice successfully prosecuted 2,613 cases of financial institution fraud in 1998. These convictions netted \$62.4 million in

recovered assets and \$491 million in court ordered restitution to the victims of these frauds (Ibid., 305, table 3.159).

- The National Consumer League's Internet Fraud Watch reported a 38% increase in complaints of Internet fraud in 1999 with estimated average consumer loss of as much as \$580.00 (NCL 16 February 2000).
- Online auction complaints were the number one Internet fraud complaint in 1999, increasing 87% over the number reported to Internet Fraud Watch (IFW) in 1998. Other frauds on the Internet were in sales of general merchandise, Internet access services, computer equipment and software, and work-at-home plans (Ibid.).
- A joint study by the Computer Security Institute (CSI) and the Federal Bureau of Investigation (FBI) found that sophisticated cyber crooks caused losses reported in excess of \$120 million in 1998. Five hundred information security professionals were polled representing a cross section of business and government institutions. Nearly one third reported that their computer systems had been breached in the past year (mostly through an Internet connection) (NWCCC 26 March 2000).
- The fifth annual survey of the FBI and the CSI released on March 22, 2000, showed that 70% of systems professionals report being victimized by serious computer crimes and when equipment theft, viruses, and other pilfering are included, the figure rose to 90%. Those claiming cyber crime related financial losses reported totals exceeding \$265 million (Zuckerman 22 March 2000).
- In 1997, the U.S. Department of Commerce estimated employee theft to be \$40 to 50 billion annually, or \$110 million a day, accounting for 20% of all business failures (Ibid.).
- Federal prosecutors filed 371 criminal indictments in health care fraud cases in 1999--a 16% increase over the previous year. A total of 396 defendants were convicted for healthcare fraud-related crimes in 1999. During this same period, the federal government won or negotiated \$524 million in judgments, settlements, and administrative impositions in healthcare cases and proceedings, and ordered convicted offenders to pay over \$490 million in fines, judgments, and settlements (HHS and DOJ January 2000).

Introduction

Financial crimes include offenses commonly called "white collar crime" such as telemarketing scams, investment or pension fraud, elder financial abuse, and identity theft. Victims of financial crimes represent a tremendously underserved

and poorly understood segment of the victim population. This is due to several factors:

- The initial emphasis of the victims' rights movement focused on serious *violent* crime, with little attention paid to financial crime victims.
- Lack of research and understanding regarding the serious emotional impact of these crimes on the victims.
- Lack of consistency in the response of law enforcement and victim services to these crimes.
- The fact that in the federal system, and in some states, financial crime victims do not have the same rights as victims of violent crimes in the criminal justice process.
- No organized constituency group advocates for financial crime victims' rights and services.
- Insufficient allocation of resources, including funding for personnel, to provide services to multiple victims in large scale cases.
- Lack of partnerships among victim assistance, elder abuse advocates, and consumer advocacy groups to address fraud and other financial crime victims.
- The significant number of victims of certain categories of financial crime who are elderly have historically been poorly served and have typically underreported their victimizations.

RESEARCH FROM THE NATIONAL INSTITUTE OF JUSTICE ON FRAUD

The lack of sufficient data on the extent of fraud victimization was highlighted in a recent report entitled *Victimization of Persons by Fraud*, based on research supported by the National Institute of Justice. The report (Titus, Heinzelmann, and Boyle 1995, 54) stated:

The FBI's *Uniform Crime Reports* (UCR) and the Justice Department's *National Crime Victimization Survey* (NCVS) provide annual tabulations on property and violent crimes, based on crimes reported to the police and surveys of households. However, they do *not* provide information with regard to the victimization of persons by fraud.

Crimes of fraud are targeted against individuals and employ deception for the purpose of obtaining illegal financial gain. They involve the misrepresentation of facts and the deliberate intent to deceive with the

promise of goods, services, or other financial benefits that in fact do not exist or that were never intended to be provided. This includes:

- Various forms of telemarketing.
- Frauds involving consumer goods or services.
- Frauds dealing with financial advice, insurance coverage, pension, investment or business schemes.

RESEARCH FROM THE NATIONAL WHITE COLLAR CRIME CENTER (NWCCC)

The National White Collar Crime Center (NWCCC) has completed a significant research project designed to measure public attitudes regarding such white collar crimes as fraud and embezzlement, how often American households are victimized by these crimes, and what U.S. citizens think the government should do to prevent these types of crimes. Although many surveys have measured public perception of violent crime and victimization, this is the first survey to measure public views and experiences related to white collar crime. The National Public Survey on White Collar Crime (Rebovich et al. 2000) was administered between January and April 1999, to a total of 1,169 U.S. citizens. Questions included:

- How serious do you believe white collar crime is?
- How safe do you feel from white collar crime?
- Have you or someone in your household been victimized by white collar crime?
- Did you report the victimization?
- What type of person do you believe the average white collar crime victim is?

Major findings include:

- Over one out of three households had been victimized by white collar crime in the last year.
- Widely held opinions concerning the profile of typical white collar crime victims do not reflect the actual profile of such victims as found by recent research on victimization. While 60 percent of respondents believed that those victimized would be over sixty years of age, for instance, earlier victimization surveys (Titus, Heinzelmann, and Boyle 1995) found that

younger adults (18 to 34 years of age) and those with some college or college degrees were more likely to be victimized.

- There is a disparity between how Americans believe they would react if victimized and how they do react when victimized (actual rate of crimes reported is much lower than believed.)
- Fewer than one in ten victimizations were reported to law enforcement or law protection agencies.
- The public wants apprehension and sanctioning of white collar criminals increased.

The information gathered from The National Public Survey on White Collar Crime (Rebovich et al. 2000) is highly significant for several reasons:

1. It is clear that the public is sensitive to the ever-increasing threat of white collar crime and strongly supports the existence and enhancement of control programs as well as stronger and more stringent punishment of those convicted of white collar crimes.
2. The results represent a challenge to the criminal justice community regarding public recognition of the behaviors that can precipitate white collar crime victimization and who should be targeted for such education.
3. Survey results are an impetus for exploring ways to increase the reporting of white collar crimes to law enforcement agencies, including developing innovative strategies to increase public awareness of the white collar crime control responsibilities of law enforcement agencies and increasing the awareness of investigators and prosecutors to keep the public informed of important white collar initiatives and the extent to which they succeed.

DEFINING FINANCIAL CRIME

Lack of a clear definition of financial crimes, white collar crime and fraud is evident because there is no unified or standardized definition of financial crime victimization. This is an issue that must be addressed first in order to better define the universe of financial crime victims so that appropriate responses to victims can be planned and implemented.

For example, many people use the terms white collar crime, fraud crime, and financial crime interchangeably. However, white collar crime is really a particular sub-category of fraud involving perpetrators of a particular status or method or opportunity involved in committing a crime. Fraud crimes are a larger category within the field of financial crimes. Fraud permits inclusion of identity theft, elder financial abuse, counterfeiting, bribery, and various corporate wrongdoing and

embezzlement crimes. Financial crime is a much broader definitional term that can include *all* aspects of financial victimization.

Wellford and Ingraham (1994) list competing definitions of financial crime:

- Sutherland (1983) stated: "white collar crime may be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation."
- Various definitions adopted by State Attorneys General and U.S. Attorneys indicate that they, "in general . . . look more to the way the crime is committed . . . than the nature or social status of the offender or the social context in which the crime is committed."

Significant issues regarding the appropriate definitions of financial crime include matters such as the type of victims in question, including determination of whether victims are individuals or organizations, and the nature of crimes involved. Wellford and Ingraham (1994) suggest *three* different classes of white collar/fraud crimes:

1. Business and professional crimes.
2. Occupational crimes.
3. Individual frauds.

Tomlin (1982) describes five basic victim typologies:

- The individual as victim.
- Corporate or business enterprises as victims.
- Government institutions as victims.
- The international order as victims.
- Society as a victim.

Clearly the impact of financial crime is far-reaching, in many cases going far beyond the individual victim. In order to address this ever-growing area of crime, the consequences of such crime must be clearly defined and understood. "If a particular society cannot and will not control its propensity for white collar crime, then it will pay the consequences. The consequences, latent and manifest, will be in the areas of distrust of government and other institutions, a damaging effect

on the moral fabric of society, and in the propensity of the populace to rationalize the existence of other types of traditional crimes" (Tomlin 1982). This cumulative community or societal impact may be considerable, but little research has been done (Moore and Mills 1990).

EXAMPLES OF FINANCIAL CRIME

Victims of financial crimes including fraud and identity theft may include individuals and small and large institutions. The following are examples of financial crimes:

- Mail fraud.
- Bankruptcy fraud.
- Wire fraud.
- Computer fraud.
- Health care and insurance fraud.
- Pension and trust fund fraud.
- Mail theft resulting in check washing.
- Credit card fraud.
- Embezzlement.
- Securities and investment fraud (including commodities).
- Reverse mortgage fraud.
- Cellular phone fraud.
- Antitrust fraud.
- Telemarketing fraud.
- Advance fee schemes.
- Identity theft.
- Elder financial exploitation.

Depending on the crime, or the amount of loss involved, such crimes can be investigated by federal, state, or local law enforcement. Unlike violent crime, state or federal regulatory agencies may also investigate cases in a civil or administrative action. Such cases may or may not also include a criminal prosecution. State Departments of Insurance, Real Estate, Corporations, and the U.S. Securities and Exchange Commission are examples of such agencies.

In addition, consumer protection divisions (either federal, state, or local) may also be involved in investigation and civil prosecution of cases involving financial crimes. Agencies such as these work closely with law enforcement and refer cases for criminal prosecution when appropriate.

Victim advocates who wish to work with financial crime victims should become aware of these different agencies and their roles and resources (such as recovery funds or brochures to help financial crime victims). For example, the Federal Trade Commission has a brochure, "Straight Talk About Telemarketing" that could be sent by victim advocates or law enforcement to victims of telemarketing crimes. Often, electronic information is available for downloading on these agencies' Web sites.

Impact of Financial Crime on Victims

Financial crime victims suffer many of the same devastating outcomes as do victims of violent crime (Kusick n.d.). Indeed, certain financial crime victims may suffer more emotional distress. In his 1989 article "White Collar Crime: What About the Victims?" Wells notes some of the following effects suffered by victims:

- Guilt and shame.
- Disbelief.
- Anger.
- Depression.
- Sense of betrayal.
- Loss of trust.

These emotional repercussions are often misunderstood by law enforcement, criminal justice professionals and victim service providers, and the community at large, and the victim is often doubly victimized by this dynamic. Walsh and Schram (1980) described this phenomenon:

People who have lost money to nonviolent white collar criminals (like swindlers and con artists) often encounter skepticism, suspicion, and contempt when they seek help. This negative treatment leaves them feeling guilty and ashamed. The

double standard used in handling white-collar offenders and their victims--as opposed to handling street criminals and their victims (except rape victims)--has been attributed to the higher status of the accused perpetrators, the difficulty of establishing criminal intent in such cases, and a belief that imprisonment is not the cure for this kind of stealing.

Another factor is the largely ambivalent attitude toward and negative image of these victims held by the public and by criminal justice officials. A number of aphorisms blame these victims: fraud only befalls those of questionable character, an honest man can't be cheated and people must have larceny in their mind to fall for a con game. The stereotype of cheated parties is that they disregard the basic rules of sensible conduct regarding financial matters. They don't read contracts before signing and don't demand that guarantees be put in writing before making purchases. Their stupidity, carelessness, or complicity undermines their credibility and makes others reluctant to activate the machinery of the criminal justice system on their behalf, to formally condemn and punish those who harmed them, and to validate their claims to be treated as authentic victims worthy of support rather than as mere dupes, losers, or suckers who were outsmarted.

EMOTIONAL IMPACT

Victims of financial crime often describe a tremendous violation of their personal integrity and sense of trust. Because these psychological "wounds" are not perceived in the same way as wounds to the body, nor as generally understood as the emotional scars of a sexual assault, the effects on financial crime victims are often, and very inappropriately, minimized. Wells noted that white collar crime victims, unlike victims of violent, physical crime, have "wounds" that "are not always easy to see and are most often internal rather than external." However, he goes on to support the notion that white collar crime victims have a similar sense of violation and often require "psychological first aid."

In Roles, Rights, and Responsibilities: A Handbook for Fraud Victims Participating in the Federal Criminal Justice System (Alexander and Seymour 1998), an excellent overview of the emotional impact of fraud crimes on victims is offered:

Fraud crime is a personal violation. Your trust in your own judgment, and your trust in others, is often shattered. You may feel a sense of betrayal, especially if the perpetrator is someone you know.

You may have hesitated to tell family members, friends or colleagues about your victimization for fear of criticism. If they then were exploited by the same fraud, you might feel guilty and suffer a sense of isolation.

Fraud crimes can destroy your financial security and sometimes that of your loved ones. If you are elderly, disabled, or on a fixed income--and you lack opportunities to recover your losses--you may face additional trauma, even the loss of your independence.

You may experience feelings about:

- Yourself for the part you played in the crime.
- The fraud criminal for taking financial advantage of you, betraying your trust, and jeopardizing your financial independence and security.
- Your family, friends, and colleagues for blaming you, being upset over what they perceive as your lack of judgment, or withdrawing financial or emotional support.
- The investigative and prosecutorial phases of the justice process, especially in cases that progress slowly or do not result in financial outcomes favorable to you.
- The news media for failing to warn the public about fraud schemes or for exploiting victims when fraud crimes are reported.
- Consumer protection agencies for failing to protect your interests.
- Creditors who don't understand your dire financial circumstances.
- Community, state and federal agencies if their resources are limited, or they do not have the authority to help you.

You might find the criminal justice process intimidating and stressful due to several factors:

- Unfamiliarity with the justice process, your role and rights in it, and services available to you.
- Fear of confronting the person who defrauded you.
- Fear of others' judgmental attitudes and actions.
- Fear of public disclosure, especially if you have not told anyone close to you about the crime.

Victim self-blame. One particular characteristic of financial crime victims that may occur in even higher degrees than in cases of violent crime is self-blame. Financial crime victims' self-blame is often extremely high and sometimes debilitating. This may be exacerbated by the insensitive professional and societal responses described above. Since the perpetrator of financial crime typically

uses methods that involve first gaining the confidence and trust of the potential victim and then using manipulation and trickery to achieve their goals of robbing the victim of his or her various assets, the victim's ability to trust may be shattered. Many victims may no longer trust their own ability to handle financial matters, and some no longer trust their own ability to judge people.

Impact on family and friends. Many victims, unaware of the fraudulent investment or scheme, encourage family and friends to participate. When the fraud is uncovered, they may be resentful and often blame the victim. This may lead to mistrust of the victim by a family member or spouse in handling financial affairs. Victims may also experience separation and isolation from family members and friends who may expect the victim to repay their financial losses. Some victims try to hide the fraud from family members out of shame and the fear of repercussions when they find out about the fraud.

Isolation, separation, and even divorce are not uncommon after a large fraud case. In the case of financial elder abuse or sweetheart swindlers, the perpetrator often will manipulate the victim and family to isolate a victim from relatives who could help. In telemarketing cases, elderly people will often attempt to hide their various transactions with illegal telemarketers from their families. They may fear that if family members learn of the extent of their losses, control of their home and entire retirement will be signed away, and they will lose their financial independence. This often makes it more difficult to find services for these victims because they do not want others to know the extent of their victimization. Often such cases are not identified until a victim has died or is found not competent to handle their affairs due to Alzheimer's disease or another debilitating medical condition.

Personal violation. Financial crime victims justifiably feel a sense of tremendous violation. The net result is often a life in financial and emotional ruin, seemingly out of control with no recovery in sight. Because these crimes may appear obvious in retrospect, the victims, who may already feel like they should never have fallen for such an obvious scheme, are frequently not viewed by professionals and society as "legitimate" victims, even though there is often nothing the victim could have done in advance that would have prevented the fraud.

This is compounded by the fact that many financial crime schemes involve investments and other financial arrangements that may lead some to feel that it was the victim's own greed that caused him or her to be blinded to the realities of the situation. Therefore, attitudes of professionals and others frequently will not exhibit a sense of outrage at the plight of the crime victim that normally accompanies their response to victims of violent crime. Consequently, many fraud victims conclude that perhaps they are to blame.

In reality, many of these kinds of scams are based on a long-term relationship of trust with the perpetrator, often within some kind of affinity group affiliation, such as a church or local Lions Club. "The one thing the lowliest con man and the highest white collar offender would seem to share is salesmanship--the capacity to convince others that the person in question is worthy of their trust and their money. The same salesmanship that leads some persons to be chosen as 'man of the year' by their companies can also be used for illegitimate purposes. The capacity for concealment or manipulation, for saying things without meaning them, unites virtually all forms of nonviolent, financially motivated frauds" (Weisburd et al. 1991, 188).

Lack of closure. Victims of financial crime, similar to victims of violent crime, may never see the perpetrator of their crime again. If they do, they observe that the perpetrator often escapes all sanctioning or punishment. Even if the perpetrator is located, the scheme has often been adequately layered with buffers which keep the individual perpetrator from prosecution. If arrested, alleged perpetrators often liquidate their assets and if prosecuted and convicted, typically employ methods such as bankruptcy to avoid paying adequate restitution to their victims. Even when the prosecution of these cases is successful, victims may have to endure many years of emotional and financial struggle and turmoil, only to receive an insignificant outcome.

Many fraud victims in both state and federal cases are not told that an arrest or prosecution has occurred, as a prosecutor may decide there are too many victims to notify or that only a few victims will be included as counts for indictment and/or restitution purposes. This can be devastating to victims' ability to be heard, especially at sentencing, if there is no opportunity to submit victim impact information, seek restitution, or seek prison status or release information. Many victims may not even know that restitution was awarded in a case.

PHYSICAL AND MENTAL HEALTH ISSUES

While the issue of physical and mental health effects has not been widely researched, studies indicate the impact of financial crimes can take a severe physical and/or emotional toll, including depression and suicidal ideation (Ganzini, McFarland, and Bloom 1990). "Neglect of white collar crime victims seems particularly unfortunate in light of its enormous physical, economic, and social toll . . . Victims of some white collar crime suffer death; others sustain serious injuries or exposure to unsafe working conditions that cause long-term, progressively debilitating illness; and financial losses may leave still others with a lower status of living" (Moore and Mills 1990, 411).

While many studies have focused on the needs of violent crime victims, little research has been conducted for victims of fraud crimes (Ganzini, McFarland, and Bloom, 1990). In the Ganzini study, one of very few studies focusing on the psychological impact of major fraud crimes, victims of four investment scams that

occurred in Oregon during the 1980s were questioned. Of the seventy-seven victims studied, it was found that 29 percent suffered a major depressive episode after the crime, compared to two percent of a control group. Five victims developed suicidal ideation, while 45 percent had a generalized anxiety disorder and depressed characteristics. Forty-eight percent of those having a depressive episode continued to have depressive symptoms six months later. The study hypothesized that the "persistence of symptoms may be the result of a domino effect whereby the initial financial loss resulted in subsequent catastrophes such as loss of home or difficulty paying debts and taxes" (Ganzini, McFarland, and Bloom 1990, 60).

Financial crime victims tend not to seek appropriate mental health or psychological support. When they do, it is usually through a counselor covered by private insurance or a religious advisor. Victim service providers can assist financial crime victims in either developing their own support groups, or in seeking appropriate emotional support from trained professionals. Other issues that are often not considered when working with financial crime victims are--

- Increased susceptibility to physical illness or death.
- The possibility of physical violence within the family of the victim, including elder, child, and/or partner abuse.
- Substance abuse as a reaction to the victimization.
- An increased risk of suicide.

REPETITIVE VICTIMIZATION

For victims to be swindled on several occasions is not uncommon, sometimes repeatedly by the same individual, or by other swindlers who have acquired their name as potential "dupes" from previous perpetrators. Financial crime perpetrators share lists of potential victims, including individuals who have previously fallen prey to their crimes. The criminal justice or victim service professional, family, and friends often have difficulty understanding how someone could continue to give their money away to scam artists. Sadly, for many elderly victims of financial crime, contact with these smooth-talking criminals may be one of the few, if not only, contacts they have with people who appear to take an interest in them.

Emerging Issues in Financial Crime

TELEMARKETING FRAUD

In a recent report to the U.S. Department of Justice, the National Consumers League (NCL) estimated that telemarketing fraud costs Americans at least \$40 billion a year. In 1992, the NCL commissioned a survey of consumers'

experience with telephone-based frauds and found that 3 percent of the respondents had bought something over the phone that they later believed was fraudulent. Sixty-two percent said they would not know where to call to find out if the promotion was legitimate, and one in six said that they found it difficult to resist telephone sales (NCL 10 January 2000).

Also cited in the NCL report was a 1999 AARP survey designed to assess consumer experiences in which 17 percent of the respondents believed that they had been the victim of a serious consumer swindle, 2 percent of which were telemarketing frauds. Of the victims of telemarketing fraud who had been identified by federal and state law enforcement officials for the AARP survey, 56 percent were age fifty or older. Further AARP studies indicate that most elderly fraud victims do not make the connection between illegal telemarketing and criminal activity; they find it hard to believe that the nice voice on the phone line would steal from them, and once cheated, they find it difficult to admit that they have been robbed by illegal telemarketers (NCL 1999).

The top ten telemarketing frauds reported to the National Fraud Information Center in 1998 were:

1. Telephone cramming.
2. Advance fee loans.
3. Telephone slamming.
4. Prizes and sweepstakes.
5. Work-at-home plans.
6. Magazine sales.
7. Credit card offers.
8. Pay-per-call services.
9. Business opportunities/franchises.
10. Travel/vacation offers.

IDENTITY THEFT

Identity theft occurs when one individual misappropriates another person's personal identification information--name, social security number, date of birth, mother's maiden name--and uses it to take over existing credit card or bank accounts, apply for a mortgage or car loan, make large purchases, apply for insurance. In many cases, unsuspecting victims have no idea that anything is amiss until they receive irate phone calls from creditors or have trouble applying

for a job, loan, or mortgage. They then discover that their credit has been seriously damaged or even ruined by any number of purchases or other financial obligations undertaken in their name by the impersonator. In what may be the worst possible scenario for victims of identity theft, the impersonator may commit a separate criminal act, resulting in the victim actually facing criminal charges for a crime committed by an imposter (Mannix 1998).

Incidences of identity theft have increased dramatically over the last several years. This is due, in part, because of new technologies such as the Internet that have enabled criminals to gain access to victims' financial information with greater ease than ever before. In a May, 1998 report from the General Accounting Office, Trans Union, one of three major credit bureaus, reported that two-thirds of all consumer inquiries related to identity theft. In 1997, these inquiries totaled 522,922, up from a total of 35,235 in 1992. The rise was attributed to "increasing cases of identity fraud, as well as to company growth and better consumer outreach" (AP 1998). The GAO report found that identity theft was increasingly detected by government agencies, including the Secret Service, Postal Service, and Internal Revenue Service. Moreover, the Secret Service reports that financial losses to victims and institutions totaled \$745 million in 1997, while only two years earlier, such losses amounted to \$442 million (Mannix 1998).

Victims of identity theft face an enormous and arduous task in repairing both their credit rating and their emotional well being. One of the biggest obstacles traditionally faced by these victims is the fact that they are, more or less, completely on their own in clearing their financial records. The prevailing attitude on the part of most creditors who are advised of an occurrence of identity fraud is one of downright skepticism. Most creditors require identity-theft victims to submit an affidavit testifying to the fact that they did not incur the debt themselves. Many creditors may require more, including the submission of copies of the victim's driver's license, Social Security card, or birth certificate. Understandably, many victims who are in the midst of the quagmire of identity theft are not eager to hand over these personal identification items, particularly since many victims suspect that it is a creditor's negligence (i.e., inadequate verification of the identity of an applicant) that may have led to the identity theft in the first place (Ibid.).

Proactive Steps for Victims of Identity Theft. While the obstacles and hurdles faced by victims of identity fraud and theft are daunting, they *can* be overcome. As legislative efforts proliferate, public awareness of the devastating impact of this crime increases. As the criminal justice system begins to respond more specifically to the needs of victims, support and services will hopefully become much more readily available. It is crucial, however, for victims of identity theft to take proactive steps to protect themselves and restore their favorable credit ratings. In *From Victim to Victor*, Mari Frank, an attorney and a victim of identity

theft herself, outlines a comprehensive plan of action for identity theft victims, which is summarized as follows:

1. *Contact credit bureaus.* Contact the fraud units of all three major credit reporting firms, TransUnion, Equifax, and Experian (each may have a different version of the credit report), to report the identity theft. Some credit bureaus may agree to "flag" an account on which there is suspected fraud.
2. *Alert creditors.* Immediately call or write all creditors to report the fraud. Request that all fraudulent accounts be cancelled and all fraudulent information on the credit report be removed. It is crucial *not* to cancel any account unless fraud has been committed, so that no suspicion is raised, making it that much more difficult to get credit later.
3. *Report the crime to the police.* Once discovered, report the crime within twenty-four hours to the fraud units of the local police and sheriff's department as well as the local police's economic crime unit (if there is one). Make sure a written report is filed and you obtain a copy.
4. *Do not pay fraudulent bills.* Never pay bills or cover checks that are not yours, even if that would alleviate your immediate credit problems. Such an action will most likely constitute a legal admission that these debts belong to you.
5. *Get a new ATM card.* If your ATM or debit card has been stolen, have a new card issued with a new account number and pin number. Do not continue to use your old pin number.
6. *Alert your public utilities.* Contact your local utilities, including telephone, electric, gas, trash, and water. Alert them to the fact that you have been the victim of identity theft and request that they issue you a password that is used for any communication regarding your account.
7. *Contact appropriate governmental agencies.* Provide written documentation of the fraud and associated financial losses to the Federal Trade Commission, Secret Service, and (if appropriate) the Social Security Administration.
8. *Check on other items of personal identification.* Make sure that other pieces of identification, such as a passport or driver's license, have not been compromised. If so, cancel the old one and apply for a new one.
9. *Conduct a civil and criminal court check.* Conduct a search of the [Knowx Web site](#) to determine if any civil actions may be pending or civil judgments entered against you. There is no charge for the search, but there is a fee if you find records you need. You may need the assistance

of court personnel or a criminal attorney in determining whether any criminal charges have been filed against you. If so, this poses an extremely serious problem and you should hire a criminal attorney or, if necessary, request the appointment of a public defender.

10. *Take care of your emotional needs.* Remind yourself that you are not alone, that other people are going through the same kind of victimization, and it is very normal to feel hopeless, enraged, frustrated, or overwhelmed. Seek out emotional support from family, friends, and/or counselors who appreciate and understand the difficulties of your situation. When speaking with creditors, banks, or other involved agencies, remember that the person you are talking to is not personally at fault. When dealing with creditors or other interested parties, do everything possible to remain calm and objective so that you can most effectively obtain the information and help you need.
11. *Seek changes in the law.* Channel your frustration and anger into educating the public and advocating for changes in your state laws that will increase the prosecution of identity theft crimes and enhance the rights of identity theft victims.
12. *Don't give up!* Accept that this will be a long process, requiring perseverance and a great deal of hard work. In communicating with creditors and other agencies, use your own form letters wherever appropriate and keep complete and accurate records of all such correspondence and communication. Always resist the temptation to just go ahead and pay off the fraudulent debts (Frank 1998).

INTERNET FRAUD

As described above, Internet fraud can play a large role in crimes of fraud such as identity theft. In response to this growing threat and in recognition of the need for efforts to preserve consumer confidence in the Internet, President Clinton announced, in May 1999, the establishment of a new national initiative to address the problem of Internet fraud. The Internet Fraud Initiative marks the first time that the Department of Justice has made Internet fraud a priority. The Initiative involves a collaborative six-part approach as follows:

- First, the Department of Justice will gather and develop information about the nature and scope of the problem of Internet fraud.
- Second, the Department of Justice is developing coordinated training for federal, state, and local law enforcement personnel and prosecutors. In recognition of the ever-evolving nature and rapid growth of Internet fraud, all training will be updated with the latest developments as appropriate.

- Third, the Federal Bureau of Investigation has joined forces with the National White-Collar Crime Center to establish the Internet Fraud Complaint Center. This new joint venture, together with the Federal Trade Commission's Consumer Sentinel database, will help to ensure that law enforcement and regulators will have timely analysis and strategic information on Internet fraud schemes. The Justice Department is also establishing closer ties and formal referral policies with agencies like the Securities and Exchange Commission, the Federal Trade commission, and the bank supervisory agencies to address Internet fraud.
- Fourth, the Justice Department will provide interagency coordination on Internet fraud prosecution at all levels of government.
- Fifth, the Justice Department will provide support for and advice on Internet fraud prosecutions for its prosecutors in the field.
- Sixth, the Justice Department will conduct a comprehensive public education and prevention effort on Internet fraud, involving a two-track approach, in collaboration with private-sector organizations. First, the Department will encourage the use of technological solutions that can help reduce the incidence of fraud on the Internet. Second, the Justice Department will work with the private sector to educate the public as to how fraudulent schemes are conducted on the Internet and how members of the public can avoid potentially fraudulent schemes.

(Portions of the preceding information were taken from remarks of Deputy Attorney General Eric Holder at the Economic Crime Summit, Fort Lauderdale, Florida, May 11, 1999.)

The Internet Fraud Watch (IFW) at the National Consumer League reported on February 14, 2000, that online auctions sales remain the number one Internet fraud for 1999, increasing to 87 percent. Consumers are losing the largest sums of money, however, in the purchase of computer hardware and software over the Internet. In incidents reported to the IFW, victims have generally paid for goods with checks and money orders, losing the rights they would normally have had they used a credit card. Unlike telemarketing fraud and identity theft, the average age of Internet fraud victims is substantially younger: 23 percent are under thirty; 53 percent are under forty; and 80 percent are under fifty (NCL 14 February 2000).

The ten most frequently reported types of Internet frauds as reported by IFW for 1999 are:

(1) online auctions (by far the most frequently reported scheme); (2) general merchandise sales; (3) Internet services; (4) computer equipment and software; (5) work-at-home schemes; (6) advance fee loans; (7) magazines; (8) adult services; (9) travel/vacations; and (10) pyramid/multilevel marketing schemes.

The IFW program received 7,439 reports of fraud in 1998, and in 1999 the complaints increased to 10,660, averaging 890 per month (IFCC 2000).

Recent Federal Initiatives

INTERNET FRAUD COMPLAINT CENTER

On May 8, 2000, the Federal Bureau of Investigation, jointly with the U.S. Department of Justice and the National White Collar Crime Center, announced the creation of the Internet Fraud Complaint Center (IFCC). The IFCC was established to combat the growing problem of fraud occurring over the Internet by providing a vehicle for victims around the country to report incidents of fraud online (FBI 8 May 2000). The IFCC mission statement is: "To develop a national strategic plan to address fraud over the Internet and to provide support to law enforcement and regulatory agencies at all levels of government for fraud that occurs over the Internet."

Internet fraud is defined as any fraudulent scheme in which one or more components of the Internet, such as Web sites, chat rooms, and e-mail, play a significant role in offering nonexistent goods or services to consumers, communicating false or fraudulent representations about the schemes to consumers, or transmitting victims' funds, access devices, or other items of value to the control of the scheme's perpetrators (IFCC 2000). Consumers can go to the secure IFCC Web site www.ic3.gov to file complaints directly online. IFCC's personnel analyze the complaints to determine jurisdiction, conduct appropriate investigation, and disseminate the information to the appropriate local, state, and/or federal law enforcement agencies for criminal, civil, or administrative action.

The IFCC is a major step forward in the fight against Internet fraud, an area of white collar crime that remains largely undefined in terms of scope and magnitude. No one knows the full extent of the commission of Internet fraud--not all victims report the crimes, and those who do report, do not report it to one place. The IFCC represents the development of a proactive strategy to combat Internet fraud through public education and awareness, the availability of a central repository for the reporting of Internet fraud complaints, and the aggressive analysis, investigation, and referral to law enforcement of criminal complaints of Internet fraud.

COMPUTER CRIME AND INTELLECTUAL PROPERTY SECTION

The cornerstone of the U.S. cyber crime program is the Computer Crime and Intellectual Property Section (CCIPS) at the U.S. Department of Justice. CCIPS was founded in 1991 as the Computer Crime Unit and was elevated to a Section in 1996. The CCIPS staff consists of two dozen lawyers who focus exclusively on the issues raised by computer and intellectual property crime. Section attorneys

advise federal prosecutors and law enforcement agents; propose and comment upon legislation; coordinate international efforts to combat computer crime; litigate cases; and train law enforcement groups. Other areas of expertise possessed by CCIPS attorneys include encryption, electronic privacy laws, search and seizure of computers, e-commerce, hacker investigations, and intellectual property crimes (Reno 2000).

NATIONAL SUMMIT ON IDENTITY THEFT

At the National Summit on Identity Theft, on March 15-16, 2000 the U.S. Treasury Department announced four new initiatives to help combat identity theft:

- Skimming and counterfeit check databases will be used to identify common suspects and defendants of identity theft and to address criminal trends prevalent in financial crimes today. The U.S. Secret Service developed the databases in partnership with the financial industry.
- A computer-based training module developed by the Secret Service that focuses on financial crimes and the relevant statutes, including identity theft, will be made available to federal, state, and local law enforcement officials throughout the U.S.
- A pilot program developed by the Secret Service and Citicorp to help identify suspicious activity in electronic commerce will attempt to develop a protocol for the identification of identity theft and other schemes used to commit bank fraud, credit fraud, and money laundering within electronic commerce and the immediate notification of law enforcement authorities.
- Forums and mini-conferences will be held to maintain a dialogue between the private and public sectors.

Significant Federal Legislation

FRAUD

In the 1995 *Attorney General Guidelines for Victim and Witness Assistance* (USDOJ 1995), telemarketing is defined as the following:

A plan, program, promotion, or campaign that is conducted to induce purchases of goods or services, or participation in a contest or sweepstakes, by use of one or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion or campaign or by a prospective purchaser or contest or sweepstakes participant--18 U.S.C. Section 2325 (1)(A)(B).

A significant legislative victory for victims of telemarketing and other federal crimes of fraud is the Mandatory Victims Restitution Act of 1996, which amends

the federal criminal code to require judges to order mandatory restitution for victims of the following crimes:

- Property crimes.
- Fraud.
- Consumer product tampering.
- Drug crimes.

Restitution may now be ordered for victims that are not victims of the specific offense resulting in conviction provided that the parties agree to that in the plea agreement. In addition, procedures for issuing and enforcing restitution orders were significantly expanded under the Act. For instance, the court must order restitution to each victim in the full amount of each victim's losses, regardless of the defendant's ability to pay. The only exceptions to this provision are:

- A finding that the number of identifiable victims is too large, making restitution impracticable.
- Determination of complex issues of fact related to victims' losses would complicate or prolong the sentencing process to a degree that it outweighs the need to provide restitution.

Full implementation of these new provisions will bring new importance to restitution in federal criminal proceedings.

IDENTITY THEFT

Compounding the difficulties identity theft victims encounter in finding support and effective assistance is the fact that, until very recently, identity theft was not even considered a crime against the individual victim, but rather a crime against the credit-granting party, i.e., the bank or merchant. In such locations, victims cannot even file an official police report (although they can file an "informational" report) because legally, no "crime" has occurred. A rapidly increasing number of states, including California and Arizona, have outlawed identity theft, but many states still adhere to the notion that the credit-granting party is the victim (Mannix 1998).

Fortunately, increasing public awareness of and focus on this devastating problem has led to the passage of a new federal statute, the Identity Theft and Deterrence Act of 1998, signed into law in October 1998. This Act contains the following provisions:

- Any person who knowingly transfers or uses, without lawful authority, a means of identification of another person may be sentenced to not more

than fifteen years in prison. Identity thefts committed in connection with a crime of violence or drug trafficking can incur a maximum penalty of twenty years imprisonment.

- The U.S. Sentencing Commission is directed to consider the following factors in considering penalties:
 - Number of victims.
 - Number of means of identification and identification documents.
 - Value of the loss to any individual.
 - Range of conduct covered by the offense.
 - Sentencing guidelines for egregious conduct and statutory maximum penalties.
 - Any other factor the Commission considers to be appropriate.
- The Federal Trade Commission is authorized to log and acknowledge reports of identity theft, provide information to victims and refer complaints to appropriate consumer reporting and law enforcement agencies.

As this landmark legislation takes effect, more and more states are focusing on the development of state identity-theft legislation. The good news for victims is that the acknowledgement, on the federal level, of identity theft as a crime against the individual victim whose identity has been robbed will not only lead to increased state legislation but will also permit victims to file police reports with their local police or sheriff's department.

In March of 1999, a California woman pleaded guilty in U.S. District Court to using a stolen social security number to obtain thousands of dollars in credit and then filing for bankruptcy in the name of the victim. She now faces twenty years in federal prison and fines up to \$1 million when she is sentenced (Mayorkas 1999). Although she is not eligible for enhanced penalties under the Identity Theft and Deterrence Act because her crimes took place prior to its enactment, it is precisely these types of crimes that led to passage of this important legislation.

Update on identity theft legislation. While the passage of the Identity Theft and Assumption Deterrence Act (18 USC 1028) in October 1998 marks significant progress, there are at least 400,000 victims of identity theft a year in this country and the number is growing, according to Beth Givens at the Privacy Rights Clearinghouse, a nonprofit consumer advocacy program in San Diego. The new legislation provides no incentives to the credit industry to curb their solicitation and verification practices. Givens believes that unless the credit industry granting and reporting practices change dramatically, the rates of identity theft in the United States will remain at epidemic proportions. "Credit grantors are too eager in their competitive zeal to get new customers, and they do not adequately check the identities of applicants before granting credit" (Givens 29 August 1999).

Some indication that identity theft is a prominent consumer concern is represented by a Spring 2000 direct mail promotion from the American Express Corporation (AMEX), entitled "Is Someone Using Your Name to Open Accounts?" Through the services of a financial information company in Chantilly, Virginia, AMEX has set up a program to monitor for identity theft for its customers (available for \$5.99 a month, charged directly to the AMEX card). The program provides a three-bureau credit profile; ongoing monitoring of account activity; and notification reports of any new accounts opened, negative information added, or significant changes in account status.

A NEED FOR CYBERCRIME LEGISLATION?

As commerce on the Internet grows, law enforcement agencies are observing a growing variety of fraudulent schemes that use the Internet, either to communicate false or fraudulent representations to prospective victims or to obtain valuable information or resources necessary for the success of the schemes. Common Internet fraud schemes include so-called "pyramid schemes"; entities that purport to be Internet banks that offer above-market rates for deposits; companies that promise to repair consumers' credit, but then do nothing after taking consumers' money; companies that purport to offer investments in nonexistent items; and companies that fraudulently offer to sell Internet-related good and services, or collectible goods through online auctions. Finally, some fraud schemes combine use of Internet Web sites with telemarketing "boiler rooms" to enhance direct contact with prospective victims (DOJ 9 March 2000, Appendix B).

While the U.S. Attorney General's Office has discussed strengthening the Computer Fraud and Abuse Act of 1986 to close loopholes that permit some highly destructive computer hackers to escape punishment, all of the above mentioned activities may violate one or more of the general federal criminal statutes dealing with fraud and can be prosecuted. Because these federal criminal and civil laws make no distinction between fraudulent representations over a telephone or fax machine and fraudulent representations posted on an online bulletin board or Web site, federal substantive law appears generally adequate to address Internet fraud. In addition, the Federal Trade Commission (FTC) has authority to bring civil actions against fraudulent Internet schemes under the FTC Act, which prohibits unfair and deceptive acts or practices (Ibid.).

Criminal Justice System Response

Those who work with victims of financial crime understand that these cases can be extremely time-consuming and demanding, and typically involve a unique population. Because of these needs, specialized attention must be paid by victim service providers and others in the criminal justice system to the particular issues involved. Financial crime cases are often very complex, with many victims (sometimes numbering in the hundreds) residing over a wide geographical area.

Automated systems could help relieve some of the burden on victim assistance personnel in maintaining the necessary contacts with these multiple-victim groups. In light of these resource shortages, it is extremely important to develop inter-agency, cross-district collaborations to reach these victims. Victims' needs for information are often immediate.

Brochures should be provided by investigators responding to the crime and should include information on local, regional, or national resources.

LAW ENFORCEMENT RESPONSE

In an article entitled "Your Best Evidence," Wells (1991) notes that utilization of a "victim first aid" technique will assist investigators and others who work with victims (see the section on the important role of law enforcement at the end of this chapter):

- A fully trained investigator will focus first on the victims' needs, identify emotional roadblocks that separate them from important case information, and help the victim deal with these emotions.

Investigators are often the only criminal justice personnel that victims of financial crimes may come into contact with, so it is important that such investigators be trained in effective and sensitive victim intervention.

An article "Investing in the Future: Protecting the Elderly from Financial Abuse," reported that because financial abuse is often not reported, and often not understood or recognized by law enforcement, such crimes often go undetected. The article includes a survey of financial institutions in which 83 percent of the respondents believed that some of their elderly clients were victims of financial abuse (Coker and Little 1997). The authors suggested several strategies:

- Provide law enforcement with additional training in recognizing and apprehending elder abusers.
- Develop collaboratives in which law enforcement shares information with adult protective services, financial institutions, public guardians, and prosecutors both at the state and federal levels. (Perhaps the best known model for this exists with the Elder Person's Estate Unit within the Los Angeles Police Department, which works closely with members of a Los Angeles Fiduciary Abuse Specialist Team (FAST), composed of adult protective workers, district attorney, stock broker, bank trust officer, retired probate judge, and public guardian staff.)
- Create laws that require people, including employees of financial institutions, to report their suspicions of elder abuse to authorities.
- Educate seniors to recognize financial exploitation.

In other types of financial crimes, law enforcement should be sensitive to the immediate financial and psychological needs of victims as a result of the impact of such crimes, and in some cases, susceptibility to future scams as a way of recouping what has been stolen. It is important for victim advocates to help law enforcement find appropriate referrals to provide to such victims.

IMPORTANCE OF VICTIM IMPACT STATEMENTS AND RESTITUTION

Restitution is one of the primary factors affecting the satisfaction of victims within the criminal justice system (OVC 1998). Restitution was an important consideration that was recognized by the 1982 President's Task Force on Victims: "It is simply unfair that victims should have to liquidate their assets, mortgage their homes, or sacrifice their health or education or that of their children while the offender escapes responsibility for the financial hardship he has imposed . . . if one of the two must go into debt, the offender should do so" (OVC 1998, 356).

It is essential that prosecutors, probation officers, victims, victim service professionals, and the judiciary all work together to secure the right to restitution for victims of financial crime. As discussed earlier in this chapter, significant legislative progress has been made in securing this right on both the federal and the state levels. However, there are exceptions to the ordering of restitution, as described above, and the existence of appropriate laws does not always translate into actual enforcement of their provisions.

The following are others issues that may prevent victims from receiving restitution:

- Judgments not listing the victim's name and loss, thus making it unenforceable as an order, or for other purposes in which a victim may need his or her name listed on a judgment.
- Prosecutors may not feel that it is necessary to include all victims, feeling that victims have the option of civil recovery for their losses. However, by the time a case has been fully investigated and accepted by the prosecution, several years may have gone by, and civil recovery may be precluded because the applicable statute of limitation has expired. Even more crucial, most victims have losses that make it difficult to hire an attorney, especially if a defendant appears to have few assets.
- In some state cases of identity theft, and in federal cases involving acts committed prior to the enactment of the Identity Theft and Deterrence Act of 1998, courts may interpret that the actual victim is the credit card company, bank or other agency that may have incurred losses from the money stolen as a result of the theft of financial information. The underlying individual victim, who may have incurred many costs in trying

to clear damaged credit records or restore bank accounts, may not be seen as a victim entitled to restitution.

- In cases of elder financial abuse or exploitation and in many investment and telemarketing cases, the elderly victim may not live long enough to see any restitution even where ordered. Information provided by victim advocates should include provisions on how restitution is distributed to a deceased victim's estate.

Also, even in cases where a victim is awarded restitution, many are not informed enough about the criminal justice system process to understand that an order does not necessarily mean that they will be paid in the near future. Some victims may believe that if restitution is ordered, the defendant will be mailing them a check for their entire loss a week after sentencing. Victim advocates should ensure that a detailed explanation of the restitution process after it has been ordered is a part of the information and brochures available to all victims for whom restitution is ordered. Information should include how to enforce their own judgments, and the need to report address changes to whoever distributes collected restitution for the length that the restitution order is in effect.

Many victims face additional frustrations when restitution is ordered because their name and the amount of their loss are not specifically listed on the criminal court judgment. Unless each victim's name and amount of loss are specified, victims have a difficult time using the loss amount for tax purposes, or pursuing their own civil remedies, or applying for certain Reparation Funds for which they may be eligible. (In California, victims of real estate fraud involving a licensed broker who have a civil or criminal judgment in which they are listed may apply for a recovery account for partial payment of their losses up to \$100,000 per case. Other states may have similar programs.) Although restitution is usually difficult to obtain, it is essential that court orders be pursued vigorously because it is very important to a victim's financial and psychological recovery.

One of the issues involved in obtaining an adequate restitution award is the preparation of a comprehensive and hard-hitting victim impact statement. Detailed accounts of funds stolen in these crimes and documentation of emotional distress are imperative to achieving adequate awards. This is often made difficult because of the large volume of victims involved in financial crime schemes, and the fact that some victims experience difficulty with trust in divulging personal information, even to officials of the criminal justice system.

Victim advocates should ensure that victims of financial crimes are provided information about how to complete victim impact and loss information as well as information about the date and time of sentencing. If possible, advocates should offer to assist at trials and sentencing in cases such as elder financial abuse, or other cases in which a prosecutor feels that a victim needs special consideration.

The Need for Collaborative Efforts

With the enhancement of VOCA funding to allow services to financial crime victims, victim service professionals will soon have more options for referrals and community collaborative efforts to assist victims of financial crimes. Until that time, advocates need to look within their own communities to address the specific needs and concerns of financial crime victims. As stated in *Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators* (Alexander 1998):

In general, victim/witness coordinators are severely burdened with growing caseloads, a lack of program or administrative staff, and numerous job-related duties. Such constraints leave victim/witness coordinators little time to establish programs and services to meet the growing needs of fraud victims. Cases involving fraud make victim/witness coordinators' jobs even more difficult, especially when those cases involve thousands of victims.

Victim/witness coordinators can employ several effective strategies to enhance their services to fraud victims. Coordinators can network with members of the community and allied professionals to learn of appropriate referrals, and they can establish local or regional task forces to address voices in victim assistance programs and services.

Efforts that can identify opportunities for collaboration within the community include:

- Obtaining information about the types of financial crimes being reported to federal agents and/or local law enforcement within a community. Victim services providers can talk to local police who investigate crimes such as fraud, identity theft, or financial elder abuse and invite them to address local victim service meetings.
- Examining state or federal victims' rights laws to compare those rights provided to victims of violent crimes to those afforded to victims of financial crimes. Where there is a difference, or financial crime victims are ignored, advocates should raise this issue for change by state-wide coalitions. (For example, under the Federal Rules of Criminal Procedure (32), victims of violent crimes are permitted to speak about the impact of a crime at sentencing, but the Rule is silent about financial crime victims also having this right.)
- Once the kinds of crimes occurring within a community are known, identifying other persons or agencies that share concerns or could incorporate services to victims within financial crime categories.
 - Contact local law schools or legal aid clinics that may be willing to develop restitution clinics and legal advocacy for victims of certain

fraud crimes, such as the program developed by the San Francisco Bar Association to combat mortgage fraud.

- Invite and include financial crime victims for recognition during National Crime Victims' Rights Week.
- Include financial crime as a topic on any victim advocacy training and programs.
- Promote the development of support groups for victims of financial crimes.
- Develop new alliances with consumer protection advocates and elder abuse specialists. Identify any job training programs for displaced homemakers or retired seniors who must re-enter the job market due to their victimization. Also identify programs or agencies that provide "companion services" and other services to elderly crime victims.
- Write articles in local newsletters and contact the state VOCA Administrator regarding ways to ensure that the state is utilizing the changes in VOCA funding requirements and is encouraging victim assistance program requests for various kinds of financial crimes.
- Include victims of financial crime to the fullest extent possible within the services provided by one's own agency.

ESTABLISHING A FRAUD VICTIM TASK FORCE

One of the most effective and comprehensive responses to the need for community collaborative efforts on behalf of financial fraud victims is the creation of a specific task force designed to address the particular needs of such victims:

A fraud victim task force should include a mix of governmental and community-based professionals and officials, community leaders, members of the public, and victim representatives so that a variety of expertise and experience can be drawn upon. Members might include the following:

- Prosecutors (county and federal).
- Law enforcement officers (city, county, and especially those who work with elderly victims through such programs as TRIAD).
- Federal case agents.
- Prosecutor-based victim assistance professionals (county and federal).
- Police chiefs.
- Sheriffs.
- Probation and parole officers (county, state, and federal).
- Judges (county and federal, representing both criminal and civil courts).
- Elected officials (mayor, county commissioner, county executive, city council members).

- Representative of the state attorney general's division of economic or consumer fraud.
- Community-based victim assistance representatives.
- Consumer protection agency representatives.
- Better Business Bureau representatives.
- Aging and adult protective service representatives.
- Consumer credit counseling representatives.
- Media representatives.
- Senior citizen organization representatives.
- Local business leaders (especially those in businesses affected by fraud crimes, or those who can provide free or reduced services such as printing).
- Nonprofit organizations (especially those that deal with consumer fraud and elder abuse).
- Religious leaders.
- Fraud victims (Alexander 1998).

The creation of such a comprehensive and community-wide task force can be critical in addressing the financial, informational, and emotional needs of victims of financial crime. An added benefit of such task forces is that they can be instrumental in identifying service areas that are fragmented, overlapping, or simply nonexistent. A coordinated community approach to services for victims of financial crime is essential if the needs of these victims are to be addressed in a meaningful way.

Office for Victims of Crime Efforts to Assist Fraud Victims

In April 1997, the Office for Victims of Crime (OVC) published the most recent revised Guidelines for Implementation of the Victims of Crime Act. Importantly, many of these revisions addressed services and assistance to victims of economic crimes. As OVC states, while VOCA funds cannot be used to compensate victims of fraud for their financial or property losses, many supportive services can be provided to these victims, including counseling, advocacy, and support throughout the criminal justice system.

In its revised 1997 guidelines, OVC encouraged states to fund new or expanded services for victims of fraud and economic exploitation (*1997 VOCA Victim Assistance Final Program Guidelines*, Sections IV.B and IV.C).

Specifically, the amended Guidelines address the following key issues relating to victims of fraud and economic exploitation:

- The definition of "victim" was expanded to include victims of financial crimes.
- The definition of "elder abuse" was expanded to include economic exploitation and fraud.

- The definition of "previously underserved" priority areas was expanded to include victims of fraud crimes.

As a result, VOCA grant funds may be used to support many direct services for fraud victims. These services can include those that address--

- Immediate health and safety.
- Mental health assistance and support groups.
- Respite care and services for victims with disabilities.
- Credit counseling advocacy or other special services.
- Restitution advocacy.
- Public presentations.
- Advanced technologies, such as notification of victims in mass fraud cases.

In addition to the important changes in the VOCA Guidelines, OVC has supported several projects to improve the treatment and services afforded to victims of financial crimes such as the following efforts:

- *VOCA Federal Victim Assistance/Demonstration Project on White Collar Crime Victimization.* This project is an ongoing collaborative effort between OVC and the United States Attorney's Office for the Northern District of California to improve services for white-collar crime victims. The demonstration project's goals are to identify, implement, and document promising practices for assisting white-collar crime victims. Replication of these important services in other U.S. Attorney's Offices nationwide is a critical aspect of this demonstration project. Another important component of the project is the development of a referral network of programs across the nation for victims of white collar crime and fraud. This project is in its implementation phase.
- *Promising Strategies and Practices to Improve Services to White Collar Crime Victims.* OVC provided support to the Police Executive Research Forum (PERF) to develop a comprehensive package of materials for federal criminal justice personnel to use in their efforts to better assist federal victims of white collar crime and fraud. PERF, in cooperation with an AD-HOC Department of Justice Working Group (composed of representatives from the Executive Office for U.S. Attorneys, National Institute of Justice, Federal Bureau of Investigation, Federal Law Enforcement Training Center, and other federal criminal justice agencies and victim assistance programs) collected model policies and procedures

and a wide range of other key information to produce the following: a camera-ready victim pamphlet, a victim handbook, a U.S. Attorney Victim/Witness Coordinator guidebook, and a 20-minute videotape on assisting white collar and fraud victims.

- *Other Efforts to Address Victims of Economic Crime by the Office for Victims of Crime.* OVC is funding several additional projects that involve federal, state, and local efforts to address victims of economic crime. These projects consist of training, technical assistance, demonstration, and other efforts that are designed to prevent and address telemarketing crimes targeted to senior citizens, are national in scope or will have national impact, and provide products or materials that can be adapted and disseminated to senior citizens groups and others who come into contact with elderly victims of crime. Projects currently funded by OVC include: the Elder Financial Exploitation Prevention Program in Oregon; the Telemarketing Fraud Project for Latino Elderly in Washington, DC; Operation Fraud Stop: A Partnership to Reduce Telemarketing Fraud and Assist Victims conducted by the National Sheriffs Association in Alexandria, Virginia; and telemarketing fraud prevention, public awareness, and training activities in Maryland.
- *OVC's First Focus Group on Victims of Fraud and White Collar Crime.* In April 1998, the Office for Victims of Crime (OVC) convened its first focus group on victims of fraud and white collar crime in conjunction with the National White Collar Crime Center's 2nd annual Economic Crime Summit, held in St. Louis, Missouri. This landmark conference brought together over 500 individuals representing federal, state, and local justice agencies and a wide range of programs serving crime victims. Highlights of the conference included a focus group on improving services and support for victims of white collar crimes and numerous workshops targeting the specific needs of victims of white collar crimes. Model programs were also presented. It is anticipated that the summit will be an annual event.

Promising Practices

- *Fact Sheets from the Privacy Rights Clearinghouse (Identity Theft).* The Privacy Rights Clearinghouse, in collaboration with the California Public Interest Research Group (CALPIRG), has developed several fact sheets and publications on identity theft. In addition, CALPIRG has developed an invaluable information guide with names, addresses and contact telephone numbers of institutions, government and criminal justice agencies, banks, and credit bureaus that it makes available to criminal justice professionals to include in their local guides to identity theft prevention and response protocols. Fact sheets speeches, case studies and referrals to victim support groups are available from the [Privacy Rights Clearinghouse](#), 1717 Kettner Avenue, Suite 105, San Diego, CA,

92101 (619-298-3396 and [CALPIRG](#), 926 J. Street, Suite 713, Sacramento, CA 95814 (916-448-4516).

- *Identify Theft: Ways to Prevent It from Happening to You and Identity Theft: What to Do When It Happens to You*. The Office of the Prosecutor in Union County, NJ has developed two excellent free brochures, one that instructs the consumer on how to prevent identity theft, including keeping personal information private, shredding credit card and other financial information, watching for mail theft, and ordering credit reports. The second brochure advises how to respond quickly and thoroughly to identity theft when it occurs, including filing police reports, reporting to the appropriate financial and credit institutions with numbers to call, and contacting the federal and state agencies that issue documents of identification, i.e., passport, social security number, and driver's license. Union County Prosecutor's Office, County Administration Building, Elizabethtown Plaza, Elizabeth, NJ 07207 (908-527-4505).
- *Identity Theft Survival Kit*. Written by Mari Frank, an attorney and victim of identity theft, as a guide to assist other victims, the kit includes the book *From Victim to Victor*, attorney-written form letters on diskette, six audio taped interviews with experts on procedures to follow to effectively extricate oneself from credit complications resulting from identify theft, and interviews with other victims. The Identity Theft Survival Theft can be purchased from [Porpoise Press](#), 28202 Cabot Road, Suite 215, Laguna Niguel, CA 92677 (800-725-0807).
- *The National Fraud Information Center* (Telemarketing Fraud). In 1992, the National Consumers League (NCL) created the National Fraud Information Center (NFIC) to advise consumers on how to spot possible frauds and report them. Professional counselors at the NFIC provide feedback to callers on reports of possible telemarketing scams, make referrals to the appropriate law enforcement agencies, and give reassurance to victims of fraud that they are not alone. In the case of elder victims, the center also advises friends and relatives who are concerned about elder fraud. NFIC distributes free materials on different types of telemarketing frauds. NCL also offers a twenty-minute video (available for a small fee) of personal stories told by fraud victims and helpful advice for seniors and their families. National Consumers League, 1701 K Street, NW, Suite 1200, Washington, DC 20006. National Fraud Information Center Hotline (800-876-7060).
- *Be-Wise: How to Shop Safely Online* (Internet Fraud). The NCL has released a brochure to educate consumers about shopping safely online. The *Be-Wise: How to Shop Safely Online* brochure is available on NCL's two Web sites: <http://www.nclnet.org> and <http://www.fraud.org> or by calling 800-639-8140.

- CCIPA at the U.S. Department of Justice has launched a [Web site](#) that provides material to consumers and law enforcement on Internet-related cyber crime. Materials on the subject include how to report a crime, prosecuting hackers, intellectual property piracy and counterfeiting, international aspects of cyber crime, and the legal issues related to e-commerce, freedom of speech, the search and seizing of computers, encryption and privacy rights.
- One innovative program was developed in Ventura, California, where staff in the County District Attorney's Office work as Elder Services Victim Advocates. They have developed some very collaborative program services:
 - Advocates participate in community forums to talk about crimes such as elder financial exploitation and financial scams.
 - A Spanish-speaking advocate appears on a local Spanish-speaking radio show to warn about potential fraud schemes.
 - The local Victim/Witness Assistance Office receives daily reports from Adult Protective Services on every case of reported elder abuse. An elder abuse advocate is immediately assigned to the case to work collaboratively with other helping professionals, including elder financial abuse.
 - These advocates have also produced, as part of the Senior Crime Prevention program, placemats that address physical abuse, financial exploitation by caretakers, and scams. These placemats are delivered to elderly and dependent adults who get home delivered meals through Meals on Wheels. They also have developed brochures, called "Rx cards," that all Ventura County pharmacists have agreed to provide to elderly customers when their prescriptions are filled. These cards include information about scams against the elderly and elder financial abuse.
- In San Francisco, California, an Elder Victim Services Representative works directly with elders who have been victimized by economic crime. The Elder Abuse Consortium in San Diego, California, works with the San Diego Bar Association to provide assistance on a pro bono basis. The Sunshine Club in Niagara Falls, New York, is a forum for senior citizen groups in the area. They meet to network and share ideas and information.
- Increasing public awareness of the problem is extremely helpful to assist victims of financial crime. Town hall and community meetings are conducted in Northern California, involving prosecutors, attorneys, and victims of fraud and economic crimes.
- The Elder Financial Exploitation Prevention Program in Salem, Oregon, is a two-phase project involving training for bank personnel on the issues of

spotting and responding to potential fraud and the development of services for elderly fraud victims. The Oregon Bankers Association, the Senior and Disabled Services Division, the U.S. Attorney's Office, U.S. Postal Inspection Service, American Association of Retired Persons, and law enforcement have all joined together to train bank personnel in how to recognize signs of elder financial exploitation and report suspected abuse. With respect to services for victims, the Senior and Disabled Services Division, other state agencies, and private organizations with expertise in fighting fraud work together to identify high risk seniors and target assistance directly to them.

- The National Sheriff's Association is coordinating OPERATION FRAUDSTOP with a variety of agencies that have expertise in fighting crimes against the elderly. This campaign provides education and assistance to telemarketing fraud victims, especially seniors. The program capitalizes on existing partnerships and programs such as community policing and TRIAD and utilizes resources such as the media and private corporations (i.e., Radio Shack and Wal-Mart).
- The Baltimore County Department of Aging has developed a booklet aimed at preventing telemarketing and telephone fraud titled *They're Calling and They Won't Hang Up!* The booklet has been produced in large print, suitable for a senior audience. It has been distributed by the Baltimore County Department on Aging's Senior Information and Assistance Service to an audience of 30,000 seniors and in October 1998 was included as an insert in a Sunday edition of *The Sunpaper* (the newspaper covered the cost of inserting the document).

Financial Crime Self-Examination

1. Define one of the following from the perspective of a victim advocate: financial crime, fraud, white collar crime, elder financial abuse, or identity theft.
2. Describe the needs of financial crime victims. How are they the same as and different from those of violent crime victims?
3. Discuss some of the obstacles financial crime victims face in accessing the criminal justice system.
4. Why is collaboration within the justice system and the community so important for the delivery of services to victims of financial crime?

5. List two significant changes that have recently occurred in the federal justice system's response to financial crime victims.

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Additional Resources

OVC provides links to other Web sites as a convenience to its visitors and tries to ensure that the links are current. The inclusion of a link on this document does not constitute an official endorsement, guarantee, or approval by OVC. OVC neither endorses, has any responsibility for, nor exercises any control over the organizations' views or the accuracy of the information contained in those pages.

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ADDITIONAL INFORMATION

Consumer Credit Counseling Service at 800-388-2227 has locations nationwide.

The Elder Locator Services Hotline at 800-677-1116 can assist in finding various kinds of elder services in most communities throughout the U.S.

Contact these agencies in writing to have your name removed from many mailing lists and phone lists (frequently used by telemarketers:

Mail Preference Service
Direct Marketing Association
PO Box 9008
Farmingdale, NY 11735

Telephone Preference Service
Direct Marketing Association
PO Box 9014
Farmingdale, NY 11735

Contact these credit reporting agencies to request credit reports or report fraudulent activity:

[Equifax](#) 800-685-1111
[Experian](#) 800-397-3742
[Trans Union](#) 800-888-4213

Also, state Attorney General Offices, county Legal Aid Associations, consumer protection agencies and some county or state bar associations (for elders) may have programs which may assist victims of fraud schemes, or provide information on avoiding scams.